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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/788,881 | 02/27/2004 | Hitoshi Takeda | 17268-002001 | 6766 |
| 26211 | 7590 | 05/19/2006 | EXAMINER | |
| FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022 | | | REHM, ADAM C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2875 | |

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/788,881

Applicant(s)

TAKEDA ET AL.

Examiner

Adam C. Rehm

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 3-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over STAM ET AL. (US 6,593,698) and TURNBULL ET AL. (US 5,803,579). STAM discloses a vehicle lamp (22) comprising:

- A plurality of headlamps for generating light (22);
- A current controlling unit/beam switch device/regulator (76) for changing a current supplied to said lamp based on ambient light level (Column 7, Lines 62-Column 8, Line 36) or speed of the vehicle via a speed signal outputting unit (72);
- Wherein the lamp intensity is reduced if speed is reduced (Column 2, Lines 29-30); and
- Control and reducing current to vehicular lamp occurs gradually (Column 8, Lines 15-28);

2. STAM does not disclose a semiconductor light-emitting element that alternates current depending on temperature. However, TURNBULL teaches a semiconductor light-emitting element/LED lamp that alternates current depending on temperature for the purpose of allowing the LED to be driven at optimum ranges (Column 31, Line 33-

Art Unit: 2875

Column 32, Line 11). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify STAM and incorporate the temperature-dependent current as taught by TURNBULL in order to ensure that the maximum allowed LED output is achieved at all operating temperatures.

3. Neither STAM nor TURNBULL disclose a plurality of LEDs wherein all of the LEDs are activated when an increased visibility is desired (e.g. higher speeds) or less than all LEDs are activated when lower visibility is ideal (e.g. lower speeds). However, STAM discloses and it is an obvious matter of design variation to increase light intensity proportionate to an increase in speed, as shown above. Likewise, it would have been obvious to one having ordinary skill in the art at the time the invention was made to increase light intensity by adding and activating additional LEDs, since it is notoriously known that additional LEDs create additional light. Furthermore, TURNBULL discloses the use of a plurality of LEDs to modify light intensity (see ABSTRACT). Even further, it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Response to Amendment

4. Applicant's amendment filed 2/28/2006 has been received.

Response to Arguments

5. Applicant's arguments have been fully considered but they are not persuasive.

6. Applicant acknowledges that STAM discloses that the intensity of light can be changed in proportion to increasing vehicle speed, but argues that the purpose of STAM is different and therefore distinguishes STAM from the claimed invention. Notably, the

Art Unit: 2875

effect, purpose or manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ 2d 1647 (1987). Further, it is reasonable to consider that the purpose and effect of the claimed invention is synonymous with that of STAM, i.e. preventing excessive glare.

7. Applicant argues that STAM does not disclose a semiconductor light-emitting element. However, STAM discloses an LED (634, Column 25, Line 55), i.e. a semiconductor diode.

8. Applicant argues that STAM does not disclose a current supplied to a headlamp based on the temperature of the headlamp. However, the previous office action noted this deficiency, which was remedied by the TURNBULL reference.

9. Applicant argues that TURNBULL does not disclose or suggest that the current supplied to the LEDs may be based on the speed of the vehicle. However, TURNBULL was not provided to illustrate this element, but was provided to illustrate a varied current based on temperature as acknowledged by Applicant.

10. Applicant argues that GLOODT does not disclose or suggest features missing from STAM or TURNBULL. Notably, Applicant's contention is fatally flawed for lack of specificity.

11. Applicant argues that neither STAM nor TURNBULL disclose or suggest that illumination intensity can be modified by activating additional LEDs. As indicated in the previous office action, mere duplication of the essential working parts of a device involves only routine skill in the art. It is notoriously known that the duplication of light

Art Unit: 2875

sources act to modify overall light intensity. Moreover, TURNBULL teaches that illumination intensity can be modified by activating additional LEDs (see ABSTRACT).

12. The rejections are maintained.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. JONES (US 6,447,151) discloses variable beam headlights.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correspondence

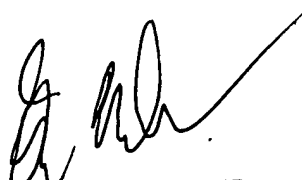
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam C. Rehm whose telephone number is 571.272.8589. The examiner can normally be reached on M-F 9-5:30 EST.

Art Unit: 2875

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571.272.2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ACR
5/2/2006



THOMAS M. SEMBER
PRIMARY EXAMINER